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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,470	02/07/2001	Cheree L. B. Stevens	ADV12 P300A	4695
277	7590	11/22/2004	EXAMINER	
PRICE HENEVELD COOPER DEWITT & LITTON, LLP 695 KENMOOR, S.E. P O BOX 2567 GRAND RAPIDS, MI 49501			TRAN LIEN, THUY	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/778,470

Applicant(s)

STEVENS ET AL.

Examiner

Lien T Tran

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 49-81 and 83-111 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 49-81 and 83-111 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

Claims 49,50,55,56,61,62, 83-84,90-95, 97-98 and 111 are rejected under 35 U.S.C. 102(b) as being anticipated by Friedman et al ( 5928693).

Friedman et al disclose a coating composition for French fries. The composition comprises about 55-85% acetylated starch, about 5-25% dextrin having a solubility of about 10-20%, about 5-25% rice flour and no more than about 10% of other ingredients such as salt, sodium aluminum phosphate and sodium bicarbonate. The acetylated starch has the amylose extender gene which can be obtained from barley. The dextrin is obtained from starch such as potato, cassava, rice, corn, wheat, sorghum and milo. Any conventional rice flour can be used. The composition is used with water to form a slurry in an amount of 30-45% and the remainder being water. Coated frozen potato product is prepared by washing potatoes, peeling, cutting in strips, blanching and dipping into brine solution. The strips are then coated with the composition, prefried and frozen. The frozen potato strips are cooked in conventional manner such as frying. The fried product can be held under a heat lamp without significant loss of crispness. Examples 3-4 show 1% leavening agent.

Friedman et al disclose all the limitations of the above cited claims. The language of the claims does not exclude the acetylated starch; the starch can be obtained from barley which meets the claimed limitation of the composition being free of corn starch.

Claims 51-54,57-60,63-81,85-89,96,98,99-110 rejected under 35 U.S.C. 103(a) as being unpatentable over Friedman et al in view of Horn et al (6080434).

Friedman et al do not disclose adding ungelatinized low amylose content potato starch, adding color agent, sugar, stabilizing agent, using high solubility dextrin, applying the coating composition as a dry mix, the holding time, freezing without parfrying, holding at room temperature and cooking after coating without freezing.

Horn et al disclose a coating composition for potato product. They teach to add up to about 5% modified pregelled potato starches to provide viscosity control and suspension of the solids in the batter. They are teach to add ingredients such as cellulose, gums including xanthan gum, guar at a level of .1% to provide improved structure and keeping qualities to the French fry product. They also teach to add optional ingredients such as flavorings, coloring agent etc.. (See col. 5 lines 21-30, col. 6 lines 42-54,col. 7 lines 1-22)

It would have been obvious to choose the solubility depending on the type of coating mix. For example, if a batter is made, it would have been obvious to choose high solubility dextrin so that it can dissolve quickly or if a dry mix is made, it would have been obvious to choose low solubility dextrin so that it is not affected easily by moisture. It would have been obvious to one skilled in the art at the time of the invention to add potato starch to the Friedman et al composition for the reason taught by Horn et al. It would also have been to choose low amylose or high amylose starch depending on the property wanted. The two components in starch are amylose and amylopectin. Each component gives different property to the starch. It would have been obvious to use starch that is high in one component or the other depending on the property desired. Applicant has not shown any criticality or unexpected result in the claimed low amylose

starch. It would have been obvious to use pregelatinize or ungelatinized depending on the solubility rate desired. It would also have been obvious to add a stabilizing agent for the reason taught by Horn et al. It would also have been obvious to add sugar, salt and coloring to the coating composition to enhance the taste and appearance; the amount to be added depends on the taste and appearance desired. It would have been obvious to apply the coating mix as a slurry or a dry mix depending on the thickness of the coating wanted. A slurry will give a thicker coating than a dry mix. When a dry mix is applied to the food substrate, it would have been obvious to moisten the food so that the dry mix can more easily adhere to the substrate. It would have been obvious to freeze or not freeze the product depending the time of consumption of the product after it is coated. If the product will be consumed in a short time after coating, then it is obvious freezing is not needed. It would have been obvious to freeze the product without parfrying when uncooked product is wanted. It would have been obvious to hold the coated food for any amount of time depending on the time of consumption. It would have been obvious to hold the food at ambient temperature or under heat depending on the temperature wanted in the product. If it is desired for the food not to be hot, it would have been obvious to hold it under ambient temperature or vice versa. It would have been obvious to use any known leavening agent; this would have been an obvious matter of preference.


Applicant's response filed Sept. 3, 2004 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Wed-Fri.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

November 17, 2004

  
LIEN TRAN  
PRIMARY EXAMINER  
